

## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)  
014682-000011

Application Number

10/710,913

Filed

August 12, 2004

First Named Inventor

Paul McMahan et al.

Art Unit  
2143Examiner  
Mark D. Fearer

Applicant requests review of the final rejection in the above-identified application.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the



Signature

 applicant/inventor.

Charles L. Moore

 assignee of record of the entire interest.

Typed or printed name

See 37 CFR 3.7.1. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96) attorney or agent of record.

919-286-8000

Registration number 33,742.

Telephone number

 attorney or agent acting under 37 CFR 1.34.

June 25, 2008

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*. \*Total of 1 forms are submitted.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Paul McMahan et al.	)	Confirmation No.: 4912
	)	
Application No. 10/710,913	)	Group Art Unit: 2143
	)	
Filed: August 12, 2004	)	Examiner: Fearer, Mark D.
	)	
Title: Method and System for Managing	)	
Interrupts in an Instant Messaging	)	
Application	)	

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**REMARKS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Applicants submit that the current and preceding Office Actions issued by the Examiner in the present application contain clear errors in the Examiner's rejections as well as omissions of one or more essential elements needed for a *prima facie* rejection under 35 U.S.C. § 102 and/or 35 U.S.C. § 103.

The present invention relates to a method for managing interrupts in an instant messaging (IM) application. When an interrupt request is received during an ongoing IM conversation, the method determines whether the interrupting party or contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the participants in the ongoing IM conversation and/or whether the IM conversation intended by the interrupting party or contact has a higher priority compared to the ongoing IM conversation. The ongoing IM conversation is interrupted in response to one of the interrupt priority ranking of the interrupting contact being higher than, or at least as high as, the interrupt priority ranking of each of the participants in the ongoing IM conversation and the IM conversation intended by the interrupting party having a higher interrupt priority ranking compared to the interrupt priority ranking of the ongoing IM conversation.

Claims 1, 5, 10, 16, 40, and 43 were rejected under 35 U.S.C. §103(a) as being obvious over Muller et al. (U.S. 20050132011) in view of Kessen et al. (U.S. 20060026254) and in further view of Erb et al. (U.S. 20040412703). Applicant respectfully submits that Muller, Kessen, and Erb fail to teach the essential elements needed for a *prima facia* rejection under §103. Claim 1 recites:

“determining at least one of whether the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation; and

interrupting the ongoing instant messaging conversation in response to a predetermined one of the interrupt priority ranking of the interrupting contact being higher than, or at least as high as, the interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and the interrupting conversation having a higher interrupt priority ranking compared to the interrupt priority ranking of the ongoing instant messaging conversation.”

The Examiner confirms on page 6 of the Final Office Action dated as mailed 03/25/2008, that Muller, as modified by Kessen, fails to disclose the method as recited in Claim 1. Paragraph [0026] of Erb was cited for teaching the deficiencies of Muller and Kessen. Applicant respectfully submits that Erb also fails to teach the features of the present invention as recited in Claim 1. Paragraph [0026] of Erb recites:

“[0026] The present invention relates to a system and method of controlling the delivery of an incoming call directed to a wireless communication device. When an incoming call directed to a wireless communication device is received, the location of the wireless communication device to which the incoming call is destined, is determined. If the wireless communication device is not within a designated zone, the incoming call is directed to the wireless communication device. If the wireless communication device is in a designated zone, the incoming call is handled based on specific criteria. In this manner, important meetings are not interrupted by incoming calls to wireless communication devices unless the incoming calls take priority over the meetings...”

Additionally, Erb in paragraph [0031] recites:

“[0031] The telephone system 20 is also programmed with redirection zones within one or both of the floors. The redirection zones correspond with designated areas or zones on the floors such as for example, meeting and/or conference rooms where it is desired to control delivery of incoming calls to wireless communications devices carried by individuals in the designated areas...”

And Erb in paragraph [0035] recites:

“[0035] If the wireless communication device is located in a redirection zone, the caller is examined to determine if the caller is a designated caller specified in the redirection zone or if the call importance exceeds the importance threshold assigned to the redirection zone (step 106).”

Accordingly, Erb teaches designating redirection zones within floors of a building where a telephone call directed to a wireless communications device within one of the redirection zones, such as a meeting or conference room (paragraph [0031] of Erb), the call will be redirected so as to not interrupt the user of the communications device within the redirection zone. In paragraph [0035] Erb is teaching determining if the call importance exceeds the importance threshold assigned to the redirection zone or meeting room. Applicant respectfully submits that Erb does not teach or suggest determining at least one of whether the interrupting contact or call has an interrupt priority ranking higher than, or at least as high as, an interrupting priority ranking of each of the at least two contacts participating in an ongoing instant messaging conversation and whether the interrupting conversation has a higher priority compared to the ongoing instant messaging conversation. Thus, Applicant respectfully submits Muller, Kessen and Erb fail to teach or suggest the features of Claim 1, and Claim 1 is patentably distinguishable over Muller, Kessen and Erb. Reconsideration and withdrawal of the 35 U.S.C. §103 rejection of Claim 1 is respectfully requested.

With respect to Claims 5 and 10, these claims recite additional features which further patentably distinguish over Muller, Kessen, and Erb. Additionally, these claims depend directly from independent Claim 1, and by virtue of that dependency, include all of the features of independent Claim 1. Therefore, Claims 5 and 10 are respectfully submitted to be patentably distinguishable over Muller, Kessen and Erb for the same reasons as discussed with respect to Claim 1. Reconsideration and withdrawal of the §103 rejection of Claims 5 and 10 is respectfully solicited.

Independent Claims 16 and 40 recite similar features to independent Claim 1. Therefore, Claims 16 and 40 are respectfully submitted to be patentably distinguishable over Muller, Kessen and Erb for the same reasons as discussed with respect to Claim 1. Reconsideration and withdrawal of the §103 rejection of independent Claims 16 and 40 is respectfully requested.

Claim 43 depends directly from independent Claim 40. Because of this dependency, Claim 43 includes all of the features of independent Claim 40. Therefore, Claim 43 is submitted

to be patentable over the cited documents for the same reasons as discussed with respect to Claim 40.

Claim 2 was rejected under 35 U.S.C. §103(a) as being obvious over Muller, in view of Kessen, and in further view of Erb, and in further view of Kirkland et al. (U.S. 20050149622). As discussed on page 12 of Applicant's Amendment filed December 31, 2007, Claim 2 is distinguishable over Muller, Kessen and Kirkland, and Applicant respectfully submits that Erb adds nothing to the teachings of these documents so as to render Claim 2 unpatentable.

Claims 6 – 7, and 20 were rejected under 35 U.S.C. §103(a) as being obvious over Muller, Kessen, Erb and in further view of Brewer et al. (U.S. 5,611,040). Applicant respectfully submits that Claims 6 – 7 and 20 are patentable over the cited documents for the reasons discussed on page 13 of Applicant's Amendment filed December 31, 2007. Erb adds nothing to the teachings of Muller, Kessen and Brewer to render these claims unpatentable.

Claims 8 and 21 were rejected under 35 U.S.C. §103(a) as being obvious in view of Muller, Kessen, Erb and in further view of Asokan (U.S. 20050220079). Claims 8 and 21 are respectfully submitted to be patentable over Muller, Kessen and Asokan for the same reasons as discussed on pages 13 and 14 of Applicant's Amendment filed on December 31, 2007. Erb adds nothing to these documents so as to render Claims 8 and 21 unpatentable.

Claim 9 was rejected under 35 U.S.C. §103(a) as being obvious over Muller in view of Kessen, in further view of Erb, and in further view of Balasuriya et al. (U.S. 20050245240). Applicant respectfully submits that Claim 9 is patentable over these documents for the same reasons as discussed on page 15 of Applicant's Amendment filed December 31, 2007.

Claims 11 and 12 were rejected under 35 U.S.C. §103(a) as being obvious over Muller, in view of Kessen, in further view of Erb, and in further view of Horvitz et al. (U.S. 2005084082). Claims 11 and 12 are patentable over the cited documents for the same reasons as discussed on pages 15 and 16 of Applicant's Amendment filed on December 31, 2007.

Claims 13 – 14 were rejected under 35 U.S.C. §103(a) as being obvious over Muller in view of Kessen, and in further view of Savage. Claims 13 and 14 are patentably distinguishable over the cited documents for the same reasons as discussed on pages 16 and 17 of Applicant's Amendment filed December 31, 2007.

Claim 15 was rejected under 35 U.S.C. §103(a) as being obvious over Muller in view of Kessen, in further view of Erb, and in further view of Suorsa et al. (U.S. 2002015683). Claim 15

is patentable over the cited documents for the same reasons as discussed on page 17 of Applicant's Amendment filed December 31, 2007.

Claims 41 and 42 were rejected under 35 U.S.C. §103(a) as being obvious over Muller in view of Kessen, in further view of Erb, in further view of Vaara (U.S. 6,400,951) and in further view of Padawer et al. (U.S. 20020052196). Claims 41 and 42 depend either directly or indirectly from independent Claim 40. Applicant respectfully submits that Vaara and Padawer add nothing to the teachings of Muller, Kessen and Erb so as to render independent Claim 40 unpatentable

Claims 44 and 46 were rejected under 35 U.S.C. §103(a) as being obvious over Muller in view of Kessen, in further view of Erb, and in further view of Horvitz et al. (U.S. 20050132014). Claims 44 and 46 depend directly from independent Claim 40. Applicant respectfully submits that Horvitz adds nothing to the teachings of Muller, Kessen and Erb so as to render independent Claim 40 unpatentable.

Claim 45 was rejected under 35 U.S.C. §103 as being obvious over Muller in view of Kessen, in further view of Erb, in further view of Horvitz, and in further view of Dugad et al. (U.S. 20040127226). Claim 45 depends indirectly from Claim 40. Applicant respectfully submits that Horvitz and Dugad add nothing to the teachings of Muller, Kessen and Erb so as to render independent Claim 40 unpatentable.

As the Examiner's rejections have been shown to be in clear error and lack essential elements of a *prima facie* anticipation rejection under 35 U.S.C. § 103, Applicant respectfully request that the claims of the present application be allowed to issue.

Respectfully submitted,

Date: June 25, 2008

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